IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

Crl.L.P..No. 445 of 2007()
S.T.No.1860/06 ON THE FILE OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS-III, NEDUMANGAD.

PETITIONER/COMPLAINANT

S.KRISHNAN, S/O.SUKUMARAN, AGED 50 YEARS
RESIDING AT SANTHA BHAVAN, KAZHUNAD,
KALLAYAM P.O., NEDUMANGAD.

BY ADV. SRI.R.S.KALKURA

RESPONDENTS: ACCUSED
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1. S.BIJU, S/O.SUNDARESAN NAIR, RESIDING
AT PUTHENVEEDU, NEAR LVHS, POTHENCODE P.O.,
NEDUMANGAD.

2. STATE OF KERALA, REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P.SRI.PUZHAKKARA MUHAMMED FOR R2

THIS CRIMINAL LEAVE PETITION HAVING BEEN FINALLY HEARD ON 05/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K. Thankappan, J.

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Crl. L.P.No. 445 of 2007

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Dated this the 5th day of July, 2007

O R D E R

Petition to grant special leave to appeal is filed by the complainant against the judgment in S.T.No. 1860/06 on the file of the Judicial Magistrate of the First Class-III, Nedumangad. The petitioner had field the complaint alleging that the 1st respondent had borrowed an amount of Rs.50,000/- from him at his residence on 3-3-2006 and in discharge of the above debt, the 1st respondent issued a cheque for Rs.50,000/- and when it was presented for encashment, the same was dishonoured on the ground of insufficiency of funds in the account of the 1st respondent. Hence, on complying the provisions regarding the notice etc., the complaint has been filed. To prove the case against the 1st respondent, the petitioner himself was examined as PW1 and Exts.P1 to P6 were marked. After closing the evidence adduced by the petitioner, the 1st respondent was questioned under section 313 Cr.P.C. He denied the allegation in the complaint and stated that he had no transaction with the petitioner. He also stated that he had borrowed an amount of Rs.15,000/- from Ratheesh, son-in-law of the

petitioner, through his neighbour Santhosh and the cheque in question was issued to Ratheesh. To prove the case, said Santhosh was examined as DW1. After considering the entire evidence, the trial court found that the explanation given by the 1st respondent that the cheque handed over by Ratheesh to the petitioner to be returned to the 1st respondent has been misused by the petitioner is probable, especially when the story of advancing Rs.50,000/- by the petitioner appears to be suspicious.

2. Having considered the arguments of the learned counsel for the petitioner and the learned Public Prosecutor and having perused the materials placed on record, this Court is of the view that the impugned judgment requires no interference by this Court. Hence, leave is rejected.

K. Thankappan,
Judge.